

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**DONALD RAYMOND PETERSON, II, M.D.)**

**Case No. 800-2016-026328**

**Physician's and Surgeon's  
Certificate No. G22928**

**Respondent**

**DECISION**

**The attached Stipulated Surrender of License and Order is hereby  
adopted as the Decision and Order of the Medical Board of California,  
Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on June 5, 2019.**

**IT IS SO ORDERED May 29, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

**By:**



**Kimberly Kirchmeyer  
Executive Director**

1 XAVIER BECERRA  
Attorney General of California  
2 STEVEN D. MUNI  
Supervising Deputy Attorney General  
3 JANNSEN TAN  
Deputy Attorney General  
4 State Bar No. 237826  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
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7 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **DONALD RAYMOND PETERSON, II,**  
14 **M.D.**  
15 **P.O. Box 408**  
**Fair Oaks, CA 95628-0408**

16 **Physician's and Surgeon's Certificate No. G**  
17 **22928**

18 Respondent.

Case No. 800-2016-026328

OAH No. 2018060693

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
23 of California (Board). She brought this action solely in her official capacity and is represented in  
24 this matter by Xavier Becerra, Attorney General of the State of California, by Jannsen Tan,  
25 Deputy Attorney General.

26 2. Donald Raymond Peterson, II, M.D. (Respondent) is represented in this proceeding  
27 by attorney Jonathan C. Turner, whose address is: 1007 Seventh Street, Suite 304  
28 Sacramento, CA 95814-3407.

3. On or about August 8, 1972, the Board issued Physician's and Surgeon's Certificate No. G 22928 to Donald Raymond Peterson, II, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-026328 and will expire on May 31, 2019, unless renewed.

## JURISDICTION

4. Accusation No. 800-2016-026328 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 8, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2016-026328 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-026328. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2016-026328, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

## RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board “shall delegate to its executive director the authority to adopt a stipulation for surrender of a license.”

13. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the

1 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full  
2 force and effect. Respondent fully understands and agrees that in deciding whether or not to  
3 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive  
4 Director and/or the Board may receive oral and written communications from its staff and/or the  
5 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the  
6 Executive Director, the Board, any member thereof, and/or any other person from future  
7 participation in this or any other matter affecting or involving Respondent. In the event that the  
8 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this  
9 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it  
10 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied  
11 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees  
12 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason  
13 by the Executive Director on behalf of the Board, Respondent will assert no claim that the  
14 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,  
15 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or  
16 of any matter or matters related hereto.

#### 17 **ADDITIONAL PROVISIONS**

18 15. This Stipulated Surrender of License and Disciplinary Order is intended by the parties  
19 herein to be an integrated writing representing the complete, final and exclusive embodiment of  
20 the agreements of the parties in the above-entitled matter.

21 16. The parties agree that copies of this Stipulated Surrender of License and Disciplinary  
22 Order, including copies of the signatures of the parties, may be used in lieu of original documents  
23 and signatures and, further, that such copies and signatures shall have the same force and effect as  
24 originals.

25 17. In consideration of the foregoing admissions and stipulations, the parties agree the  
26 Executive Director of the Medical Board may, without further notice to or opportunity to be heard  
27 by Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 22928, issued to Respondent Donald Raymond Peterson, II, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.


3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2016-026328 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Jonathan C. Turner. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 4/18/19

  
DONALD RAYMOND PETERSON, II, M.D.  
Respondent

1 I have read and fully discussed with Respondent Donald Raymond Peterson, II, M.D. the  
2 terms and conditions and other matters contained in this Stipulated Surrender of License and  
3 Order. I approve its form and content.

4 DATED: 4-18-19

  
JONATHAN C. TURNER  
Attorney for Respondent

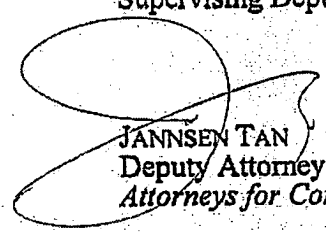
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7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
9 for consideration by the Medical Board of California of the Department of Consumer Affairs.

10 Dated: 4/26/2019

Respectfully submitted,

11 XAVIER BECERRA  
Attorney General of California  
12 STEVEN D. MUNI  
Supervising Deputy Attorney General

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JANNSEN TAN  
15 Deputy Attorney General  
16 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 800-2016-026328**



XAVIER BECERRA  
Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Investigation Against:

Case No. 800-2016-026328

**Donald Raymond Peterson II, M.D.**  
**PO Box 408**  
**Fair Oaks, CA 95628-0408**

OAH No.

**ACCUSATION**

**Physician's and Surgeon's Certificate**  
**No. G 22928,**

Respondent.

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about August 8, 1972, the Medical Board issued Physician's and Surgeon's Certificate No. G 22928 to Donald Raymond Peterson II, M.D. (Respondent). The Physician's and Surgeon's Certificate No. G 22928 was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2019, unless renewed.

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code(Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1       “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
2 violation of, or conspiring to violate any provision of this chapter.

3       “(b) Gross negligence.

4       “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
6 the applicable standard of care shall constitute repeated negligent acts.

7       “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9       “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
11 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the  
12 applicable standard of care, each departure constitutes a separate and distinct breach of the  
13 standard of care.

14       “(d) Incompetence.

15       “(e) The commission of any act involving dishonesty or corruption which is substantially  
16 related to the qualifications, functions, or duties of a physician and surgeon.

17       “(f) Any action or conduct which would have warranted the denial of a certificate.

18       “(g) The practice of medicine from this state into another state or country without meeting  
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
20 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
21 proposed registration program described in Section 2052.5.

22       “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
24 who is the subject of an investigation by the board.”

25       6.     Section 2242 of the Code states:

26       “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022  
27 without an appropriate prior examination and a medical indication, constitutes unprofessional  
28 conduct.

1       “(b) No licensee shall be found to have committed unprofessional conduct within the  
2 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of  
3 the following applies:

4       “(1) The licensee was a designated physician and surgeon or podiatrist serving in the  
5 absence of the patient’s physician and surgeon or podiatrist, as the case may be, and if the drugs  
6 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return  
7 of his or her practitioner, but in any case no longer than 72 hours.

8       “(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed  
9 vocational nurse in an inpatient facility, and if both of the following conditions exist:

10       “(A) The practitioner had consulted with the registered nurse or licensed vocational nurse  
11 who had reviewed the patient’s records.

12       “(B) The practitioner was designated as the practitioner to serve in the absence of the  
13 patient’s physician and surgeon or podiatrist, as the case may be.

14       “(3) The licensee was a designated practitioner serving in the absence of the patient’s  
15 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized  
16 the patient’s records and ordered the renewal of a medically indicated prescription for an amount  
17 not exceeding the original prescription in strength or amount or for more than one refill.

18       “(4) The licensee was acting in accordance with Section 120582 of the Health and Safety  
19 Code.”

20       7.     Section 2052 of the Code states:

21       “(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who  
22 advertises or holds himself or herself out as practicing, any system or mode of treating the sick or  
23 afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,  
24 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition  
25 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended  
26 certificate as provided in this chapter or without being authorized to perform the act pursuant to a  
27 certificate obtained in accordance with some other provision of law is guilty of a public offense,  
28 punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to

1 subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not exceeding  
2 one year, or by both the fine and either imprisonment.

3 (b) Any person who conspires with or aids or abets another to commit any act described in  
4 subdivision (a) is guilty of a public offense, subject to the punishment described in that  
5 subdivision.

6 (c) The remedy provided in this section shall not preclude any other remedy provided by  
7 law."

8 8. Section 2264 of the Code states:

9 The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or  
10 any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any  
11 other mode of treating the sick or afflicted which requires a license to practice constitutes  
12 unprofessional conduct.

13 9. Section 2261 of the Code states:

14 "Knowingly making or signing any certificate or other document directly or indirectly  
15 related to the practice of medicine or podiatry which falsely represents the existence or  
16 nonexistence of a state of facts, constitutes unprofessional conduct."

17 10. Section 2266 of the Code states: The failure of a physician and surgeon to maintain  
18 adequate and accurate records relating to the provision of services to their patients constitutes  
19 unprofessional conduct.

20 11. Section 3501 of the Code states:

21 "..."

22 "(4) "Physician assistant" means a person who meets the requirements of this chapter and is  
23 licensed by the board."

24 "(5) "Supervising physician" or "supervising physician and surgeon" means a physician and  
25 surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of  
26 California who supervises one or more physician assistants, who possesses a current valid license  
27 to practice medicine, and who is not currently on disciplinary probation for improper use of a  
28 physician assistant."

1       “(6) “Supervision” means that a licensed physician and surgeon oversees the activities of,  
2 and accepts responsibility for, the medical services rendered by a physician assistant.”

3       “...”

4       “(10) “Delegation of services agreement” means the writing that delegates to a physician  
5 assistant from a supervising physician the medical services the physician assistant is authorized to  
6 perform consistent with subdivision (a) of Section 1399.540 of Title 16 of the California Code of  
7 Regulations.”

8       “...”

9       “(b) A physician assistant acts as an agent of the supervising physician when performing  
10 any activity authorized by this chapter or regulations adopted under this chapter.”

11       12. Section 3502 of the Code states:

12       “(a) Notwithstanding any other law, a physician assistant may perform those medical  
13 services as set forth by the regulations adopted under this chapter when the services are rendered  
14 under the supervision of a licensed physician and surgeon who is not subject to a disciplinary  
15 condition imposed by the Medical Board of California prohibiting that supervision or prohibiting  
16 the employment of a physician assistant. The medical record, for each episode of care for a  
17 patient, shall identify the physician and surgeon who is responsible for the supervision of the  
18 physician assistant.<sup>1</sup>

19       “...”

20       “(c)<sup>2</sup>(1) A physician assistant and his or her supervising physician and surgeon shall  
21 establish written guidelines for the adequate supervision of the physician assistant. This  
22 requirement may be satisfied by the supervising physician and surgeon adopting protocols for  
23 some or all of the tasks performed by the physician assistant. The protocols adopted pursuant to  
24 this subdivision shall comply with the following requirements:

25  
26       <sup>1</sup> The final sentence of sec. 3502, subd. (a), was added effective January 1, 2016.

27       <sup>2</sup> Sec. 3502, subd. (c), relating to guidelines for supervision of the physician assistant,  
28 including protocols, was added effective January 1, 2008.

1           “(A) A protocol governing diagnosis and management shall, at a minimum, include  
2 the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or  
3 assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and  
4 education to be provided to the patient.

5           “(B) A protocol governing procedures shall set forth the information to be provided to  
6 the patient, the nature of the consent to be obtained from the patient, the preparation and  
7 technique of the procedure, and the followup care.

8           “(C) Protocols shall be developed by the supervising physician and surgeon or  
9 adopted from, or referenced to, texts or other sources.

10           “(D) Protocols shall be signed and dated by the supervising physician and surgeon and  
11 the physician assistant.

12           “(2)(A) The supervising physician and surgeon shall use one or more of the following  
13 mechanisms to ensure adequate supervision of the physician assistant functioning under the  
14 protocols:

15           “(i) The supervising physician and surgeon shall review, countersign, and date a  
16 sample consisting of, at a minimum, 5 percent<sup>3</sup> of the medical records of patients treated by the  
17 physician assistant functioning under the protocols within 30 days of the date of treatment by the  
18 physician assistant.

19           “(ii)<sup>4</sup> The supervising physician and surgeon and physician assistant shall conduct  
20 a medical records review meeting at least once a month during at least 10 months of the year.  
21 During any month in which a medical records review meeting occurs, the supervising physician  
22 and surgeon and physician assistant shall review an aggregate of at least 10 medical records of  
23 patients treated by the physician assistant functioning under protocols. Documentation of  
24

25           <sup>3</sup> The requirement that the supervising physician and surgeon review, countersign, and  
26 date a sample consisting of a minimum of 5 percent of the medical records of patients treated by  
the physician assistant was added effective January 1, 2008.

27           <sup>4</sup> This subsection was added effective January 1, 2016.  
28

1 medical records reviewed during the month shall be jointly signed and dated by the supervising  
2 physician and surgeon and the physician assistant.

3 “(iii)<sup>5</sup> The supervising physician and surgeon shall review a sample of at least 10  
4 medical records per month, at least 10 months during the year, using a combination of the  
5 countersignature mechanism described in clause (i) and the medical records review meeting  
6 mechanism described in clause (ii). During each month for which a sample is reviewed, at least  
7 one of the medical records in the sample shall be reviewed using the mechanism described in  
8 clause (i) and at least one of the medical records in the sample shall be reviewed using the  
9 mechanism described in clause (ii).

10 “(B) In complying with subparagraph (A), the supervising physician and surgeon shall  
11 select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his  
12 or her judgment, the most significant risk to the patient.

13 “(3) Notwithstanding any other law, the Medical Board of California or the board may  
14 establish other alternative mechanisms for the adequate supervision of the physician assistant.

15 “...”

16 13. Section 3502.1 of the Code states:

17 “(a) In addition to the services authorized in the regulations adopted by the Medical Board  
18 of California, and except as prohibited by Section 3502, while under the supervision of a licensed  
19 physician and surgeon or physicians and surgeons authorized by law to supervise a physician  
20 assistant, a physician assistant may administer or provide medication to a patient, or transmit  
21 orally, or in writing on a patient’s record or in a drug order, an order to a person who may  
22 lawfully furnish the medication ... pursuant to subdivisions (c) and (d).

23 “...”

24 “(2) Each supervising physician and surgeon who delegates the authority to issue a  
25 drug order to a physician assistant shall first prepare and adopt, or adopt, a written, practice  
26 specific, formulary and protocols that specify all criteria for the use of a particular drug or device,

27  
28 <sup>5</sup> This subsection was added effective January 1, 2016.



1 and any contraindications for the selection. Protocols for Schedule II controlled substances shall  
2 address the diagnosis of illness, injury, or condition for which the Schedule II controlled  
3 substance is being administered, provided, or issued. The drugs listed in the protocols shall  
4 constitute the formulary and shall include only drugs that are appropriate for use in the type of  
5 practice engaged in by the supervising physician and surgeon. When issuing a drug order, the  
6 physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

7 “(b) ‘Drug order,’ for purposes of this section, means an order for medication that is  
8 dispensed to or for a patient, issued and signed by a physician assistant acting as an individual  
9 practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal  
10 Regulations...

11 “(c) A drug order for any patient cared for by the physician assistant that is issued by the  
12 physician assistant shall either be based on the protocols described in subdivision (a) or shall be  
13 approved by the supervising physician and surgeon before it is filled or carried out.

14 “(1) A physician assistant shall not administer or provide a drug or issue a drug order  
15 for a drug other than for a drug listed in the formulary without advance approval from a  
16 supervising physician and surgeon for the particular patient. At the direction and under the  
17 supervision of a physician and surgeon, a physician assistant may hand to a patient of the  
18 supervising physician and surgeon a properly labeled prescription drug prepackaged by a  
19 physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

20 “(2)<sup>6</sup> A physician assistant shall<sup>7</sup> not administer, provide, or issue a drug order to a  
21 patient for Schedule II through Schedule V controlled substances without advance approval by a  
22 supervising physician and surgeon for that particular patient unless the physician assistant has  
23 completed an education course that covers controlled substances and that meets standards,

24  
25 <sup>6</sup> A prior version of this subsection, effective January 1, 2005, through December 31,  
26 2012, stated only: “A physician assistant may not administer, provide or issue a drug order for  
Schedule II through Schedule V controlled substances without advance approval by a supervising  
physician and surgeon for the particular patient.”

27 <sup>7</sup> Prior to January 1, 2016, all previous versions of this subsection used the word “may”  
28 instead of “shall.”

1 including pharmacological content, approved by the board. The education course shall be  
2 provided either by an accredited continuing education provider or by an approved physician  
3 assistant training program. If the physician assistant will administer, provide, or issue a drug  
4 order for Schedule II controlled substances, the course shall contain a minimum of three hours  
5 exclusively on Schedule II controlled substances. Completion of the requirements set forth in this  
6 paragraph shall be verified and documented in the manner established by the board prior to the  
7 physician assistant's use of a registration number issued by the United States Drug Enforcement  
8 Administration to the physician assistant to administer, provide, or issue a drug order to a patient  
9 for a controlled substance without advance approval by a supervising physician and surgeon for  
10 that particular patient.

11           “(3) Any drug order issued by a physician assistant shall be subject to a reasonable  
12 quantitative limitation consistent with customary medical practice in the supervising physician  
13 and surgeon's practice.

14           “(d) A written drug order issued pursuant to subdivision (a), except a written drug order in a  
15 patient's medical record in a health facility or medical practice, shall contain the printed name,  
16 address, and telephone number of the supervising physician and surgeon, the printed or stamped  
17 name and license number of the physician assistant, and the signature of the physician assistant.  
18 Further, a written drug order for a controlled substance, except a written drug order in a patient's  
19 medical record in a health facility or a medical practice, shall include the federal controlled  
20 substances registration number of the physician assistant and shall otherwise comply with Section  
21 11162.1 of the Health and Safety Code. Except as otherwise required for written drug orders for  
22 controlled substances under Section 11162.1 of the Health and Safety Code, the requirements of  
23 this subdivision may be met through stamping or otherwise imprinting on the supervising  
24 physician and surgeon's prescription blank to show the name, license number, and if applicable,  
25 the federal controlled substances registration number of the physician assistant, and shall be  
26 signed by the physician assistant. When using a drug order, the physician assistant is acting on  
27 behalf of and as the agent of a supervising physician and surgeon.

28 ///

1       “(e) The supervising physician and surgeon shall use either of the following mechanisms to  
2 ensure adequate supervision of the administration, provision, or issuance by a physician assistant  
3 of a drug order to a patient for Schedule II controlled substances:

4               “(1) The medical record of any patient cared for by a physician assistant for whom the  
5 physician assistant’s Schedule II drug order has been issued or carried out shall be reviewed,  
6 countersigned, and dated by a supervising physician and surgeon within seven days.

7               “(2)<sup>8</sup> If the physician assistant has documentation evidencing the successful  
8 completion of an education course that covers controlled substances, and that controlled substance  
9 education course (A) meets the standards ... established in Sections 1399.610 and 1399.612 of  
10 Title 16 of the California Code of Regulations, and (B) is provided either by an accredited  
11 continuing education provider or by an approved physician assistant training program, the  
12 supervising physician and surgeon shall review, countersign, and date, within seven days, a  
13 sample consisting of the medical records of at least 20 percent of the patients cared for by the  
14 physician assistant for whom the physician assistant’s Schedule II drug order has been issued or  
15 carried out. Completion of the requirements set forth in this paragraph shall be verified and  
16 documented in the manner established in Section 1399.612 of Title 16 of the California Code of  
17 Regulations. Physician assistants who have a certificate of completion of the course described in  
18 paragraph (2) of subdivision (c) shall be deemed to have met the education course requirement of  
19 this subdivision.

20       “...”

21       14. California Code of Regulations, title 16, section 1399.540, states:

22               “(a) A physician assistant may only provide those medical services which he or she is  
23 competent to perform and which are consistent with the physician assistant’s education, training,  
24 and experience, and which are delegated in writing by a supervising physician who is responsible  
25 for the patients cared for by that physician assistant.

26       ///

27       

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28       <sup>8</sup> This subsection was added effective January 1, 2016.

1       “(b) The writing which delegates the medical services shall be known as a delegation of  
2 services agreement. A delegation of services agreement shall be signed and dated by the  
3 physician assistant and each supervising physician. A delegation of services agreement may be  
4 signed by more than one supervising physician only if the same medical services have been  
5 delegated by each supervising physician. A physician assistant may provide medical services  
6 pursuant to more than one delegation of services agreement.

7       “...

8       “(d) A physician assistant shall consult with a physician regarding any task, procedure or  
9 diagnostic problem which the physician assistant determines exceeds his or her level of  
10 competence or shall refer such cases to a physician.”

11       15. California Code of Regulations, title 16, section 1399.541 states:

12       “Because physician assistant practice is directed by a supervising physician, and a physician  
13 assistant acts as an agent for that physician, the orders given and tasks performed by a physician  
14 assistant shall be considered the same as if they had been given and performed by the supervising  
15 physician. Unless otherwise specified in these regulations or in the delegation or protocols, these  
16 orders may be initiated without the prior patient specific order of the supervising physician.”

17       “...”

18       16. California Code of Regulations, title 16, section 1399.545 states:

19       “(a) A supervising physician shall be available in person or by electronic communication at  
20 all times when the physician assistant is caring for patients.

21       “(b) A supervising physician shall delegate to a physician assistant only those tasks and  
22 procedures consistent with the supervising physician’s specialty or usual and customary practice  
23 and with the patient’s health and condition.

24       “(c) A supervising physician shall observe or review evidence of the physician assistant’s  
25 performance of all tasks and procedures to be delegated to the physician assistant until assured of  
26 competency.

27       “(d) The physician assistant and the supervising physician shall establish in writing  
28 transport and back-up procedures for the immediate care of patients who are in need of emergency

1 care beyond the physician assistant's scope of practice for such times when a supervising  
2 physician is not on the premises.

3       “(e) A physician assistant and his or her supervising physician shall establish in writing  
4 guidelines for the adequate supervision of the physician assistant which shall include one or more  
5 of the following mechanisms:

6               “(1) Examination of the patient by a supervising physician the same day as care is  
7 given by the physician assistant;

8               “(2) Countersignature and dating of all medical records written by the physician  
9 assistant within thirty (30) days that the care was given by the physician assistant;

10               “(3) The supervising physician may adopt protocols to govern the performance of a  
11 physician assistant for some or all tasks. The minimum content for a protocol governing  
12 diagnosis and management as referred to in this section shall include the presence or absence of  
13 symptoms, signs, and other data necessary to establish a diagnosis or assessment, any appropriate  
14 tests or studies to order, drugs to recommend to the patient, and education to be given the patient.  
15 For protocols governing procedures, the protocol shall state the information to be given the  
16 patient, the nature of the consent to be obtained from the patient, the preparation and technique of  
17 the procedure, and the follow-up care. Protocols shall be developed by the physician, adopted  
18 from, or referenced to, texts or other sources. Protocols shall be signed and dated by the  
19 supervising physician and the physician assistant. The supervising physician shall review,  
20 countersign, and date a minimum of 5% sample of medical records of patients treated by the  
21 physician assistant functioning under these protocols within thirty (30) days. The physician shall  
22 select for review those cases which by diagnosis, problem, treatment or procedure represent, in his  
23 or her judgment, the most significant risk to the patient;

24               “(4) Other mechanisms approved in advance by the board.

25       “(f) The supervising physician has continuing responsibility to follow the progress of the  
26 patient and to make sure that the physician assistant does not function autonomously. The  
27 supervising physician shall be responsible for all medical services provided by a physician  
28 assistant under his or her supervision.”

1           17. Section 2285 of the Code states:

2           “The use of any fictitious, false, or assumed name, or any name other than his or her own by  
3 a licensee either alone, in conjunction with a partnership or group, or as the name of a  
4 professional corporation, in any public communication, advertisement, sign, or announcement of  
5 his or her practice without a fictitious-name permit obtained pursuant to Section 2415 constitutes  
6 unprofessional conduct. This section shall not apply to the following:

7           “(a) Licensees who are employed by a partnership, a group, or a professional corporation  
8 that holds a fictitious name permit.

9           “...”

10          18. Section 2415 of the Code states:

11          “(a) Any physician and surgeon ..., who as a sole proprietor, or in a partnership, group, or  
12 professional corporation, desires to practice under any name that would otherwise be a violation  
13 of Section 2285 may practice under that name if the proprietor, partnership, group, or corporation  
14 obtains and maintains in current status a fictitious-name permit issued by the Division of  
15 Licensing [of the Medical Board of California] ... under the provisions of this section.

16          “(b) The division or the [Medical] board shall issue a fictitious-name permit authorizing  
17 the holder thereof to use the name specified in the permit in connection with his, her, or its  
18 practice if the division or the [Medical] board finds to its satisfaction that:

19               “(1) The applicant or applicants or shareholders of the professional corporation hold  
20 valid and current licenses as physicians and surgeons ...

21               “(2) The professional practice of the applicant or applicants is wholly owned and  
22 entirely controlled by the applicant or applicants.

23               “(3) The name under which the applicant or applicants propose to practice is not  
24 deceptive, misleading, or confusing.

25          “(c) Each permit shall be accompanied by a notice that shall be displayed in a location  
26 readily visible to patients and staff. The notice shall be displayed at each place of business  
27 identified in the permit.

28          “...”

1       “(e) Fictitious-name permits issued under this section shall be subject to Article 19  
2 (commencing with Section 2420) pertaining to renewal of licenses, except the division shall  
3 establish procedures for the renewal of fictitious-name permits every two years on an anniversary  
4 basis...”

5       “...”

6       19. Section 2286 of the Code states:

7       “It shall constitute unprofessional conduct for any licensee to violate, to attempt to violate,  
8 directly or indirectly, to assist in or abet the violation of, or to conspire to violate any provision or  
9 term of Article 18 (commencing with Section 2400), of the Moscone-Knox Professional  
10 Corporation Act (Part 4 commencing with Section 13400) of Division 3 of Title 1 of the  
11 Corporations Code), or of any rules and regulations duly adopted under those laws.”

12       20. Section 2400 of the Code states:

13       “Corporations and other artificial legal entities shall have no professional rights, privileges,  
14 or powers. However, the Division of Licensing may in its discretion, after such investigation and  
15 review of such documentary evidence as it may require, and under regulations adopted by it, grant  
16 approval of the employment of licensees on a salary basis by licensed charitable institutions,  
17 foundations, or clinics, if no charge for professional services rendered patients is made by any  
18 such institution, foundation, or clinic.”

19       21. Section 2402 of the Code states:

20       “The provisions of Section 2400 do not apply to a medical ... corporation practicing  
21 pursuant to the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section  
22 13400) of Division 3 of Title 1 of the Corporations Code) and this article, when such corporation  
23 is in compliance with the requirements of these statutes and all other statutes and regulations now  
24 or hereafter enacted or adopted pertaining to such corporations and the conduct of their affairs.”

25       22. Section 2406 of the Code states:

26       “A medical ... corporation is a corporation that is authorized to render professional  
27 services, as defined in Section 13401 of the Corporations Code, so long as that [medical]  
28 corporation and its shareholders, officers, directors and employees rendering professional services

1 who are physicians and surgeons ... or ... physician assistants, ... are in compliance with the  
2 Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes  
3 and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct  
4 of its affairs.

5 "With respect to a medical corporation ..., the governmental agency referred to in the  
6 Moscone-Knox Professional Corporation Act is the [Medical] board."

7 23. California Code of Regulations, title 16, section 1343 states:

8 "A professional corporation shall comply with the following provisions:

9 "(a) The corporation is organized and exists pursuant to the general corporation law and is a  
10 professional corporation within the meaning of the Moscone-Knox Professional Corporations Act  
11 (Corporations Code Section 13400 *et seq.*).

12 "(b) Each shareholder, director or officer (except as provided in Section 13403 of the  
13 Corporations Code and Section 2408 of the code) holds a valid physician's and surgeon's  
14 certificate ..., provided that a ... physician's assistant ... may be a shareholder, director or officer  
15 of a medical corporation so long as such licensed persons own no more than 49% of the total  
16 shares issued by the medical corporation and the number of licensed persons owning shares in the  
17 medical corporation does not exceed the number of physicians owning shares in such a  
18 corporation...

19 "..."

20 24. Section 13401 of the Corporations Code states:

21 "As used in this part:

22 "(a) 'Professional services' means any type of professional services that may be lawfully  
23 rendered only pursuant to a license, certification, or registration authorized by the Business and  
24 Professions Code, the Chiropractic Act, or the Osteopathic Act.

25 "(b) 'Professional corporation' means a corporation organized under the General  
26 Corporation Law ... that is engaged in rendering professional services in a single profession,  
27 except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued  
28 by the governmental agency regulating the profession as herein provided and that in its practice or



1 business designates itself as a professional or other corporation as may be required by statute.

2 However, any professional corporation ... rendering professional services by persons duly  
3 licensed by the Medical Board of California or any examining committee under the jurisdiction of  
4 the board, ... shall not be required to obtain a certificate of registration in order to render those  
5 professional services.

6 "...

7 "(d) 'Licensed person' means any natural person who is duly licensed under the provisions  
8 of the Business and Professions Code ... to render the same professional services as are or will be  
9 rendered by the professional corporation or foreign professional corporation of which he or she is,  
10 or intends to become, an officer, director, shareholder, or employee.

11 "...

12 25. Section 13401.5 of the Corporations Code states:

13 "Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the  
14 following licensed persons may be shareholders, officers, directors, or professional employees of  
15 the professional corporations designated in this section so long as the sum of all shares owned by  
16 those licensed persons does not exceed 49 percent of the total number of shares of the  
17 professional corporation so designated herein, and so long as the number of those licensed  
18 persons owning shares in the professional corporation so designated herein does not exceed the  
19 number of persons licensed by the governmental agency regulating the designated professional  
20 corporation. ...

21 "(a) Medical corporation.

22 "...

23 "(7) Licensed physician assistants.

24 "...

25 26. Section 13406 of the Corporations Code states:

26 "(a) Subject to the provisions of subdivision (b), shares of capital stock in a professional  
27 corporation may be issued only to a licensed person or to a person who is licensed to render the  
28 same professional services in the jurisdiction or jurisdictions in which the person practices, and

1 any shares issued in violation of this restriction shall be void. Unless there is a public offering of  
2 securities by a professional corporation..., its financial statements shall be treated by the  
3 Commissioner of Corporations as confidential, except to the extent that such statements shall be  
4 subject to subpoena in connection with any judicial or administrative proceeding, and may be  
5 admissible in evidence therein. ...

6 "..."

7 27. California Code of Regulations, title 16, section 1344 states:

8 "(a) Unless a fictitious name permit is obtained pursuant to Section 2415 of the code, the  
9 name of a professional [medical] corporation shall be restricted to the name or surname of one or  
10 more of the present prospective or former shareholders who are physicians ...

11 "(b) When the applicant uses any fictitious, false or assumed name or any name other than  
12 the name or surname of one or more of the present, prospective or former shareholders, or any  
13 other words or names in addition to those of the shareholders, it shall obtain a permit pursuant to  
14 Section 2415 of the code...

15 "..."

16 **FIRST CAUSE FOR DISCIPLINE**  
17 **(Gross Negligence)**

18 28. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined  
19 by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care  
20 and treatment of Patient A, as more particularly alleged hereinafter.

21 29. Respondent is a physician and surgeon who at all times alleged herein practiced at  
22 Quality Medical Center (QMC), Sacramento from February 2014 to March 2015.

23 30. QMC is a medical corporation wherein 50% of its shares were not owned by doctors.  
24 Respondent allowed persons without a physician's and surgeon's certificate to be majority  
25 shareholders in a medical corporation.

26 31. On or about March 3, 2014, Respondent entered into a delegation of services  
27 agreement with a physician assistant, ("PA CC"), wherein Respondent agreed to be PA CC's  
28 supervising physician and to be responsible for the care of patients she saw.

1           32. During the period of May 2014 to March 2015, Respondent and PA CC prescribed  
2 controlled substances for patients of a physician ("Dr. K") whose DEA controlled substances  
3 certification was revoked. Dr. K had written the prescriptions on Respondent's prescription pads  
4 and had them subsequently signed by Respondent. Neither Respondent nor PA CC saw Dr. K's  
5 patients for an evaluation. Respondent was at QMC two days a week, and allowed PA CC to  
6 prescribe for Dr. K. When Respondent learned that Dr. K's medical license was revoked, Dr. K  
7 was asked to leave QMC. Respondent continued to refill Dr. K's patients' controlled substance  
8 prescriptions until March 2015, when QMC closed.

9           33. During the period of May 2014 to March 2015, Respondent and PA CC prescribed  
10 psychotropic medications for serious mental illnesses without appropriate background and  
11 training. Respondent and PA CC also failed to provide a face to face evaluation prior to  
12 prescribing controlled substances.

13 Patient A

14           34. Patient A was a 29-year-old male patient of Dr. K, for whom PA CC and Respondent  
15 prescribed controlled substances.

16           35. On or about February 25, 2014, PA CC prescribed Adderall and Klonopin. PA CC  
17 and Respondent failed to evaluate and/or document their evaluation and provide medical  
18 indication for the prescription of Adderall and Klonopin.

19           36. On or about March 25, 2014, PA CC prescribed Adderall and Klonopin. PA CC and  
20 Respondent failed to evaluate and/or document their evaluation and provide medical indication  
21 for the prescription of Adderall and Klonopin.

22           37. On or about March 28, 2014, PA CC prescribed Norco 10/325 and Valium. PA CC  
23 and Respondent failed to evaluate and/or document their evaluation and provide medical  
24 indication for the prescription of Norco 10/325 and Valium.

25           38. On or about April 25, 2014, PA CC prescribed Adderall and Klonopin. PA CC and  
26 Respondent failed to evaluate and/or document their evaluation and provide medical indication  
27 for the prescription of Adderall and Klonopin.

28 ///

1           39. On or about May 25, 2014, Respondent prescribed Adderall and Klonopin. PA CC  
2 and Respondent failed to evaluate and/or document their evaluation and provide medical  
3 indication for the prescription of Adderall and Klonopin.

4           40. On or about June 25, 2014, PA CC prescribed Adderall and Klonopin. PA CC  
5 documented that Patient A was taking Adderall 30 mg twice daily and Klonopin 1 mg three times  
6 daily and signed "Agree with Plan – CC PA." PA CC and Respondent failed to evaluate and/or  
7 document their evaluation and provide medical indication for the prescription of Adderall and  
8 Klonopin. Respondent failed to perform an adequate mental status evaluation.

9           41. On or about July 25, 2014, PA CC prescribed Adderall and Klonopin. PA CC and  
10 Respondent failed to evaluate and/or document their evaluation and provide medical indication  
11 for the prescription of Adderall and Klonopin.

12           42. On or about August 21, 2014, PA CC saw Patient A and documented the first office  
13 progress note. She documented the chief complaint as "Establish-[Dr. K] patient." Respondent  
14 and PA CC failed to document an adequate subjective history. Patient A was noted to be taking  
15 Adderall and Klonopin and was noted to have no allergies to medications. The physical exam  
16 documented a set of normal vital signs with height and weight. Patient A's appearance, eyes,  
17 lung, heart sounds, and skin exam were normal. Respondent and PA CC failed to perform and/or  
18 document a good faith mental status examination. Patient A's past medical history was listed as  
19 ADHD, GAD, depression. PA CC documented that Patient A had jaw surgery and meningitis in  
20 2005. The assessments and plan section was documented as "ADD" and "GAD" and a notation  
21 "RF Meds x 3 mos." PA CC wrote prescriptions for Adderall and Klonopin. She also wrote  
22 Adderall prescriptions to be filled the next two months. PA CC documented a controlled  
23 substance agreement which was signed by Patient A. However, Respondent was unfamiliar with  
24 the side effects and risks of the drugs he and PA CC were prescribing. Patient A was instructed to  
25 return to the clinic in 3 months. Respondent failed to co-sign the progress note.

26           43. On or about November 25, 2014, PA CC saw Patient A. PA CC documented the  
27 chief complaint as "med refill." The subjective history was "stable no complaints." PA CC noted  
28 that Patient A was taking Adderall and Klonopin. PA CC documented vital signs, and noted that

1 Patient A had a normal appearance. PA CC noted that she had checked the controlled substances  
2 agreement, CURES, and urine drug test. PA CC noted that Patient A had a positive drug test for  
3 ethanol and that the patient was "advised of office policy, agrees and accepts." Respondent and  
4 PA CC failed to establish a high risk patient periodic review protocol. PA CC documented her  
5 assessment as ADHD and GAD. PA CC noted that her plan was, "RF Meds x 3 mos." PA CC  
6 wrote prescriptions for Adderall and Klonopin. She also wrote Adderall prescriptions to be filled  
7 the next two months. Respondent failed to co-sign the progress note.

8 44. On or about February 26, 2015, PA CC saw Patient A. PA CC documented the  
9 reason for the visit as "med refill (Klonopin, Adderall)." PA CC documented vital signs but left  
10 the physical exam portion blank. PA CC documented that Patient A smoked 5 cigarettes a day.  
11 The assessment portion was also blank, and the progress note was not signed by PA CC or  
12 Respondent. PA CC wrote prescriptions again for Klonopin and Adderall.

13 Patient B

14 45. Patient B was a 19-year-old patient of Dr. K, for whom PA CC and Respondent  
15 prescribed controlled substances. Patient B saw Dr. K at QMC for bipolar disorder and  
16 Asperger's syndrome.

17 46. Patient B filled a prescription for Adderall on or about May 2, 2014, and July 4, 2014  
18 that was issued by Respondent and PA CC, respectively. Respondent and PA CC failed to  
19 evaluate and/or document their evaluation and provide medical indication for the prescription of  
20 controlled substances. Respondent was also unfamiliar with the side effects and risks of the drugs  
21 he and PA CC were prescribing.

22 47. A note in template form entitled "Patient Report" dated July 23, 2014, documented  
23 the chief complaint as "REFERAL (sic) FROM DR [K] FOR ADDERALL PERSCRIPTION  
24 (sic)." The note was unsigned by any provider. Under past and current medical conditions, it had  
25 boxes checked for "anxiety, attention problems, depression, insomnia, and other." The Patient  
26 Report listed a family medical history of acid reflux/GERD, anxiety, depression, high blood  
27 pressure, high cholesterol. Patient A's chart also contained a controlled substances agreement  
28 dated July 23, 2014. The controlled substances agreement was not countersigned by a healthcare

1 provider. A handwritten "progress note" dated July 23, 2014, also documented Adderall 40 mg  
2 daily, Lamictal 300 mg daily, Neurontin, Zoloft, and Trazodone.

3 48. On or about August 5, 2014, PA CC saw Patient B for a refill on medication.  
4 Respondent and PA CC failed to adequately document the patient encounter. PA CC noted vital  
5 signs and a preprinted list of several psychotropic drugs. Adderall is the only drug on the list that  
6 is checked, and next to it is written 20 mg, #60, two daily. At the bottom of the page is PA CC's  
7 handwriting "Agree with plan" and her initials "CC PA." The prescription written on this date  
8 was signed by PA CC but was written by Dr. K. Respondent and PA CC failed to evaluate and/or  
9 document their evaluation and provide medical indication for the prescription of controlled  
10 substances.

11 49. A note in template form entitled "Patient Report" dated September 5, 2014  
12 documented the same information as the July 23, 2014 "Patient Report." It is substantially the  
13 same pre-filled form with the exception of the date. A typed "Progress Note" dated September 5,  
14 2014, also documented Adderall 40 mg daily, Lamictal 300 mg daily, Neurontin, Zoloft, and  
15 Trazodone. The typed progress note noted that Patient B reports "doing pretty well overall."  
16 Patient B also reported that he is seeing a benefit with Adderall in school and being able to "focus  
17 and be productive." The typed progress note is signed by PA CC. Respondent signed the  
18 prescription for Adderall on September 5, 2014, October 4, 2014, and November 4, 2014, written  
19 by Dr. K. Respondent and PA CC failed to de-escalate and appropriately manage their opioid  
20 prescriptions, and provide adequate periodic reviews.

21 50. On or about November 20, 2014, PA CC saw Patient B in the office for a chief  
22 complaint of: "[R]efill Neurontin, doxepin. [DR. K] pt-stable x years with current regimen.  
23 Younger brother had OV [office visit] with [Dr. K] on 11/14/14 for depression was advised to  
24 increase Zoloft." PA CC documented vital signs. PA CC documented "normal appearance"  
25 under physical exam. PA CC's assessment was "bi- polar" and PA CC planned to refill the  
26 gabapentin, doxepin, and lamotrigine. Patient B was instructed and agreed to find a new  
27 psychiatrist. Patient B was to return in 3 months. PA CC signed the note. Respondent failed to  
28 co-sign the progress note.

1        51. Patient B filled his last prescription from PA CC on or about December 9, 2014 for  
2 Adderall at 20 mg #10 pills to get the patient to his next psychiatry appointment. There was no  
3 office visit note that accompanied the reviewed copy of this prescription.

4        52. Respondent committed gross negligence in his care and treatment of Patients A and  
5 B, which include, but are not limited to the following:

6            A. Respondent failed to keep adequate records.

7            B. Respondent failed to perform an independent good faith examination.

8            C. Respondent prescribed psychotropic medication without the appropriate background  
9 in psychiatry.

10          D. Respondent allowed PA CC to prescribe psychotropic medication without having the  
11 appropriate background in psychiatry.

12          E. Respondent issued controlled substance prescriptions for a provider who was not  
13 authorized to prescribe controlled substances.

14          F. Respondent allowed PA CC to issue controlled substance prescriptions for a provider  
15 who was not authorized to prescribe controlled substances.

16          G. Respondent prescribed future-dated prescriptions for controlled substances without  
17 adequate patient monitoring.

18          H. Respondent allowed PA CC to prescribe future-dated prescriptions for controlled  
19 substances without adequate patient monitoring.

20          I. Respondent prescribed controlled substances without ascertaining for himself medical  
21 indication.

22          J. Respondent allowed PA CC to prescribe controlled substances without ascertaining  
23 for herself medical indication.

24          K. Respondent failed to document any failed attempts at using non-controlled  
25 substances, and/or failed to document any titration of prescribed drugs; and/or failed to de-  
26 escalate therapies when appropriate:

27          L. Respondent prescribed controlled substances without knowing the nature and side  
28 effects of the prescribed drug.

1 M. Respondent failed to comply with the guidelines for the prescription of controlled  
2 substances.

3 N. Respondent failed to provide adequate supervision to his PA, PA CC,

4 O. Respondent aided and abetted the unlicensed practice of medicine by Dr. K.

5 **SECOND CAUSE FOR DISCIPLINE**  
6 **(Repeated Negligent Acts – Patient A and Patient B)**

7 53. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined  
8 by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his  
9 care and treatment of Patients A and B, as more particularly alleged in paragraphs 28 through 51,  
10 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

11 54. Respondent committed repeated negligent acts in his care and treatment of Patients A  
12 and B, which included, but were not limited to the following:

13 A. Respondent failed to keep adequate records.

14 B. Respondent failed to perform an independent good faith examination.

15 C. Respondent prescribed psychotropic medication without the appropriate background  
16 in psychiatry.

17 D. Respondent allowed PA CC to prescribe psychotropic medication without having the  
18 appropriate background in psychiatry.

19 E. Respondent issued controlled substance prescriptions for a provider who was not  
20 authorized to prescribe controlled substances.

21 F. Respondent allowed PA CC to issue controlled substance prescriptions for a provider  
22 who was not authorized to prescribe controlled substances.

23 G. Respondent prescribed future-dated prescriptions for controlled substances without  
24 adequate patient monitoring.

25 H. Respondent allowed PA CC to prescribe future-dated prescriptions for controlled  
26 substances without adequate patient monitoring.

27 I. Respondent prescribed controlled substances without ascertaining for himself medical  
28 indication.



1 J. Respondent allowed PA CC to prescribe controlled substances without ascertaining  
2 for herself medical indication.

3 K. Respondent failed to document any failed attempts at using non-controlled substances  
4 and titrate or de-escalate therapies when appropriate.

5 L. Respondent prescribed controlled substances without knowing the nature and side  
6 effects of the prescribed drug.

7 M. Respondent failed to comply with the guidelines for the prescription of controlled  
8 substances.

9 N. Respondent failed to provide adequate supervision to his PA, PA CC.

10 O. Respondent aided and abetted in the unlicensed practice of medicine by Dr. K.

11 **THIRD CAUSE FOR DISCIPLINE**  
12 **(Failing to Adequately Supervise Physician Assistant)**

13 55. Respondent's license is subject to disciplinary action under section 2234, subdivision  
14 (a), of the Code as defined by sections 2234, subdivisions (a) and (f), 3501, 3502, 3502.1, of the  
15 Code, and California Code of Regulations, title 16, sections 1399.541, and 1399.545, in that he  
16 failed to properly supervise his physician assistant, PA CC, as more particularly alleged in  
17 paragraphs 28 through 51, above, which are hereby incorporated by reference and realleged as if  
18 fully set forth herein.

19 **FOURTH CAUSE FOR DISCIPLINE**  
20 **(Prescribing without a Good Faith Examination)**

21 56. Respondent's license is subject to disciplinary action under section 2242, 2234,  
22 subdivision (a) of the Code as defined by sections 2234, subdivisions (a) and (f), 3502.1, of the  
23 Code, and California Code of Regulations, title 16, sections 1399.541, and 1399.545, in that he  
24 failed to perform a good faith examination, and failed to properly monitor his physician assistant,  
25 PA CC, while she prescribed controlled substances without a good faith examination, as more  
26 particularly alleged in paragraphs 28 through 51, above, which are hereby incorporated by  
27 reference and realleged as if fully set forth herein.

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**FIFTH CAUSE FOR DISCIPLINE**  
**(Violation of the Laws Regarding Medical Corporations)**

57. Respondent is further subject to disciplinary action under sections 2227 and 2234, of the Code as defined by sections 2234, subdivisions (a) and (f), 2285, 2286, 2400, 2402, 2406, 2408, and 3541, of the Code, and Corporations Code sections 13401 and 13401.5, California Code of Regulations, title 16, sections 1343, in that Quality Medical Center (QMC) is not organized and does not exist pursuant to the general corporation law and is not a professional corporation within the meaning of the Moscone-Knox Professional Corporations Act (Corporations Code Section 13400 *et seq.*); and/or failed to obtain a fictitious name permit for QMC; and/or Respondent is the majority shareholder of the medical corporation QMC, and allowed persons without a physician's and surgeon's license to own more than 49 percent of the total shares of the medical corporation QMC, as more particularly alleged in paragraphs 28 through 51, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

**SIXTH CAUSE FOR DISCIPLINE**  
**(False Representations)**

58. Respondent is further subject to disciplinary action under section 2227, 2234, of the Code, as defined by Section 2234 subdivisions (a) and (f), 2261, 2052, 2264 of the Code, in that he knowingly made false representations when he signed prescriptions for Dr. K, who was not authorized to prescribe controlled medication, as more particularly alleged in paragraphs 28 through 51, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

**SEVENTH CAUSE FOR DISCIPLINE**  
**(Failure to Maintain Adequate and Accurate Records)**

59. Respondent is further subject to disciplinary action under sections 2227 and 2234, of the Code, as defined by section 2266 of the Code, in that he failed to maintain adequate and accurate records relating to the provision of services to Patients A and B., as more particularly alleged in paragraphs 28 through 51, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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**EIGHTH CAUSE FOR DISCIPLINE**  
**(General Unprofessional Conduct)**

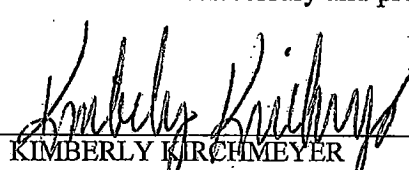
60. Respondent is further subject to disciplinary action under sections 2227, 2234, in that he engaged in conduct which breached the rules or ethical code of the medical profession or which was unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 28 through 51, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 22928, issued to Donald Raymond Peterson II, M.D.;
2. Revoking, suspending or denying approval of Donald Raymond Peterson II, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Donald Raymond Peterson II, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: May 8, 2018

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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